

**Exhibit 94 to the Cobb Declaration**  
**(Dkt. No. 316-10)**

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Page 1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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In Re: )  
)  
) No. 2:21-cv-00563-JCC  
VALVE ANTITRUST LITIGATION )  
)

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VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF  
KASSIDY GERBER

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9:05 A.M.

THURSDAY, OCTOBER 5, 2023  
701 FIFTH AVENUE, SUITE 5100  
SEATTLE, WASHINGTON

Reported by: Tami Lynn Vondran, CRR, RMR, CCR/CSR  
WA CCR #2157; OR CSR #20-0477; CA CSR #14435

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Page 59

1 Q. So why does Steam have a provision in the SDAs  
2 that requires DLC to be on parity but doesn't require  
3 the price to be on parity, yet Steam, at least at times,  
4 takes action against a developer who doesn't have a  
5 price parity?

6 MR. SKOK: Object to the form.

7 Also, Ms. Gerber, to the extent you've had  
8 communications with counsel about this issue, those  
9 would be attorney-client privileged, and instruct you  
10 not to disclose those.

11 If you can answer otherwise, please do.

12 A. Can you repeat the question.

13 MR. O'ROURKE: Can we have it read back,  
14 please.

15 (Last question read back.)

16 A. So I feel like there were two questions there.  
17 Why does Steam have a -- sorry. Can you read it again.

18 (Last question read back.)

19 A. That's a big question. I don't know. You're  
20 asking why does Steam have a parity.

21 So we have a parity clause in our SDA because  
22 we don't want to have a worse version of the game, we  
23 want to make sure that the thing that we're offering on  
24 Steam is as good as any other PC version that's  
25 available out there.

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Page 60

1           So that's why we have the parity clause.

2           Q.     (BY MR. O'ROURKE)   Okay.   And why don't you  
3     have a price parity clause when, at least at times, you  
4     enforce price parity against developers who are selling  
5     a game at a lower price at a different store?

6           MR. SKOK:   Object to the form.

7           Also, to the extent that this calls for a  
8     disclosure of attorney-client communications, those  
9     would be privileged.   Please do not disclose those.

10          If you can answer otherwise, please do.

11          A.     We don't have a price parity clause because we  
12     think it's -- we understand that developers are going to  
13     run promotions on other channels at different times, and  
14     so we don't require that they always run them on Steam  
15     when they're -- when they, you know, want to run one on  
16     their own platform or on a different, you know,  
17     platform's sale event, or something like that.

18          So that's why we don't require parity for  
19     price.

20          Q.     (BY MR. O'ROURKE)   But you take down their  
21     preorders if they're not in material parity on price.

22          You've done that?

23          A.     Yes.

24          Q.     It's not based on the SDA?

25          A.     No.   It's based on -- it's based on a

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Page 61

1 brand-new game that we're asking customers to pay full  
2 price for before the game's even available. And so, you  
3 know, we think that -- we want to make sure that's a  
4 good offer.

5 Q. You've worked at Steam for over 11 and a half  
6 years. Can you point to anything in any Steam  
7 documentation that requires developers to sell a game  
8 with -- on price parity with what they're selling the  
9 same game on Steam?

10 MR. SKOK: Objection. Asked and answered.

11 A. I'd have to -- I'd have to -- I don't have any  
12 of our documentation memorized, so I don't know.

13 Q. (BY MR. O'ROURKE) Okay. As you sit here,  
14 having worked as an account manager for at least nine  
15 and -- nine-plus years, you can't think of any  
16 documentation that Steam has that would obligate a  
17 developer to sell its game on another platform in parity  
18 in price with what it sells the game -- same game on  
19 Steam; correct?

20 MR. SKOK: Objection. Asked and answered.

21 A. I'm not -- I don't have our documentation  
22 memorized, so no.

23 Q. (BY MR. O'ROURKE) Is it fair to say that  
24 during the time you've worked at Valve, there's a rule  
25 of thumb that you ask that anything that a developer

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Page 62

1 offers through other retailers are also available to  
2 Steam customers?

3 A. Yeah, that's -- that's accurate.

4 Q. And has that been accurate for the entire time  
5 you've been at Valve, about 11 and a half years?

6 A. Probably, yeah. I can't remember a time when  
7 it wasn't that way.

8 Q. And how did you learn that that was a  
9 requirement or a rule of thumb --

10 A. I don't remember.

11 Q. -- at Valve?

12 A. I don't remember.

13 Q. You learned that working in business  
14 development with your coworkers?

15 A. Probably, yeah.

16 Q. And where did you learn that you need to make  
17 sure customers who come to purchase games from Steam  
18 aren't being offered a worse product than what's offered  
19 elsewhere?

20 A. Where did I learn?

21 Q. Yes.

22 A. Can you ask again.

23 Q. Sure.

24 I'll ask it this way -- different question.

25 Is it fair to say that in your experience

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Page 63

1 working with -- at Valve, that Valve needs to make sure  
2 customers who come to purchase games from Steam, your  
3 storefront, are not being offered a worse product than  
4 what is being offered elsewhere?

5 A. Yes, that's fair.

6 Q. And that's -- fair to say that's been in place  
7 for all of the years you've worked --

8 A. Yes.

9 Q. -- at Valve?

10 "Yes"?

11 A. Yes.

12 Q. And where did you learn that that was a  
13 requirement at Valve? In other words, who told you or  
14 taught you that?

15 A. The Steam business team has conversations  
16 where we are always thinking about how the store should  
17 look and what we should offer. And I suppose the team  
18 is, I guess, the answer to -- as a team we made these --

19 Q. And when you say "the team," you mean the  
20 business development team?

21 A. Yes.

22 Q. And those are the names of the people that  
23 we -- that you identified earlier in this deposition?

24 A. Yes.

25 Q. Does the team meet regularly to discuss topics

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Page 64

1 such as this, "this" being what we expect developers to  
2 offer on our store versus what they offer on other  
3 stores?

4 A. Insofar as we have conversations in the cabal,  
5 yes.

6 Q. Okay. And when you say "cabal," what do you  
7 mean?

8 A. Our office. We call it cabal.

9 Q. Does that refer to a physical space, or what  
10 specifically does "cabal" refer --

11 A. Physical space. The -- yeah, our office, the  
12 physical space, we call them cabals.

13 Q. That's the 19th floor?

14 A. Yeah -- well, today it's the 19th floor.

15 Q. And please describe the cabal that's -- is it  
16 on the 19th floor? Is it a physical space?

17 A. Yes.

18 Q. And how is it -- is it a conference room?

19 A. No. It's just open office space. Everyone  
20 has a desk. We all sit together.

21 Q. The business development team sits essentially  
22 side by side?

23 A. Yeah.

24 Q. And across from one another?

25 A. Yeah.



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Page 65

1 Q. And you, then, informally -- strike that.

2 And then from time to time, you just -- the  
3 group talks and makes decisions about what Steam -- the  
4 Steam store should be like?

5 A. Sure, yes.

6 Q. And whether developers should be required to  
7 offer parity for their games on Steam versus what  
8 they're offering on other online storefronts?

9 MR. SKOK: Object to the form.

10 A. When a case comes up where one of us is  
11 concerned parity might be an issue, we often have a  
12 conversation in the cabal about it to decide how to  
13 handle it on a case-by-case basis.

14 Q. (BY MR. O'ROURKE) And the group reaches some  
15 consensus, and then the decision is reported back to the  
16 developer of what they must or must not do?

17 A. Yes.

18 Q. Do you vet the decision with anybody else  
19 outside the business team, like some higher management?

20 A. We don't have managers, so we typically reach  
21 consensus in the cabal. If there's someone who isn't  
22 present that we want to make sure we get their take, we  
23 might email.

24 But generally, we trust that with a -- with --  
25 I think we trust that we make pretty good decisions as a

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Page 66

1 team, so...

2 Q. And when the group comes to a decision, then  
3 it has the authority within the Steam structure -- or  
4 the Valve structure to communicate that decision to the  
5 developer?

6 A. Yes.

7 Q. Has it always been that way for the time  
8 you've worked at Valve?

9 A. Has it always been what way?

10 Q. Sure. I'll re-ask the question.

11 During the time you've been in business  
12 development at Valve for, what, 11 and a half years, has  
13 it always been the case that the business development  
14 team will talk among themselves, reach consensus on a  
15 topic such as material parity, and have the authority to  
16 communicate that decision to the developer?

17 A. I don't know that I could confidently  
18 summarize my entire time at Valve as always being that  
19 way.

20 Q. Can you think of a time when it wasn't that  
21 way, when you had to get some other approval outside of  
22 the business development team to make -- to communicate  
23 a decision about what a developer should or shouldn't do  
24 on parity?

25 A. No, I can't.

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Page 67

1 MR. SKOK: For the record, Valve designates  
2 the entire transcript as "Highly Confidential - Attorney  
3 Eyes Only."

4 Q. (BY MR. O'ROURKE) Do you believe that Valve  
5 makes some type of implicit promise to Steam customers,  
6 that you're not knowingly promoting a worse version of  
7 the game to them?

8 A. Do I believe -- can you repeat that. Sorry.

9 Q. Sure. I'm actually going to ask a different  
10 question, and then we may come back to that one.

11 A. Okay.

12 Q. But new question.

13 Do you believe that Valve makes an explicit  
14 promise to customers of Steam that Steam will not  
15 knowingly promote a worse version of a game to them than  
16 what is available outside of Steam?

17 A. No.

18 Q. Do you believe that Steam makes an implicit  
19 promise to the same effect?

20 A. I've never thought about it that way.

21 Q. Okay. Can you think of any communication to  
22 game customers of Steam as to the price that they should  
23 expect to pay on Steam versus what they may have to pay  
24 at a different online store?

25 A. Can you repeat the question.

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Page 68

1 Q. Sure.

2 MR. O'ROURKE: Let's have it read back.

3 (Question read back.)

4 A. No, I can't think of anything like that.

5 Q. (BY MR. O'ROURKE) No communication that Steam  
6 would have the lowest price, or about the lowest price,  
7 or anything of that nature?

8 A. No.

9 MR. O'ROURKE: Let's take a short break.

10 THE VIDEOGRAPHER: The time is 10:43 a.m. And  
11 we're going off the record.

12 (Brief break taken.)

13 THE VIDEOGRAPHER: The time is 10:54 a.m. We  
14 are back on the record.

15 Q. (BY MR. O'ROURKE) Ms. Gerber, where did the  
16 term "cabal" come from in referring to the group of  
17 business development managers that meet together?

18 A. I don't know for sure. I think I looked it up  
19 at one point and I think it has something to do with  
20 rugby, but I don't know.

21 Q. Well, my question was a little different.

22 It's, where do you understand the term came  
23 from that -- that is used at Valve?

24 A. I think it came from rugby. I think they call  
25 it a cabal.

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Page 69

1 Q. Is that something that you learned -- I mean,  
2 has somebody told you that that's where that term came  
3 from?

4 A. Like I said, I think I looked it up at some  
5 point because I didn't know what the word meant, and I  
6 think it came from rugby, but I could be wrong.

7 Q. Are you aware of alternative meanings of  
8 cabal?

9 A. No.

10 Q. When you looked at the dictionary, did you see  
11 any other definition of cabal?

12 A. I don't remember. I thought I looked it up on  
13 Wikipedia, but I don't remember.

14 Q. Okay. When you looked it up on Wikipedia, did  
15 you see any definition of cabal, aside from a reference  
16 to rugby?

17 A. I don't remember.

18 Q. Does Valve still call these meetings of the  
19 business development group a "cabal"?

20 MR. SKOK: Object to the form.

21 A. We don't call meetings "cabals," we call our  
22 office space "cabals."

23 Q. (BY MR. O'ROURKE) Thank you for that  
24 clarification. I misunderstood.

25 So the group of desks that are together by a